

REMARKS

Claims 1-56 were pending in the application, with Claims 1, 17, 21, 31, 44, 50, and 54 being independent. Applicant amends Claims 1-6, 17, 21-26, 31-33, 35, 41-42, 44-47, and 50-56 to further clarify features of the claimed subject matter. The original specification and drawings support these claim amendments at least at pages 4, 7, 9-12, and 15-18, and in Figure 1. These revisions introduce no new matter.

Claims 1-56 are now pending in the application. Applicant respectfully requests reconsideration and allowance of the subject application in view of the foregoing amendments and the following remarks.

Claim Rejections Under 35 U.S.C. § 102(b)

A. Claims 1, 21, 29-31, 44, 50, and 54 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,157,377 to Shah-Nazaroff et al. (hereinafter “Shah”).

Applicant respectfully traverses the rejection.

Independent Claim 1

Without conceding the propriety of the stated rejections, and only to advance the prosecution of this application, Applicant amends independent Claim 1 to further clarify features of the subject matter. **Independent claim 1** as amended now recites a control-based content pricing system, comprising:

a content server configured to distribute a media content to a client device in response to a request from the client device to receive the media content;

the content server further configured to distribute an advertisement with the media content by prepending the advertisement to the media content before the media content and the advertisement are distributed to the client device;

a valuation application located on the content server and configured to allocate a cost to the client device for the media content that is distributed;

the content server further configured to receive a view control input from the client device after the media content and the advertisement have been distributed to the client device indicating how the media content is to be rendered;

the valuation application further configured to adjust the cost allocated for the media content according to the view control input and how the media content was rendered on the client device; and

an advertisement log located on the content server and configured to track if the advertisement is rendered for viewing by the client device based on the view control input received or a base time-line based on rendering both the media content and the advertisement on the client device.

Applicant respectfully submits that no such system is anticipated by Shah.

Shah Fails to Disclose Prepending an Advertisement to the Requested Media Content Prior to Distribution, Having a Valuation Application on the Content Server Allocating a Cost to the Client Device for Distributed Media Content, and Adjusting that Cost According to the View Control Input and How the Media Content Was Rendered on the Client Device

Shah is directed towards purchasing upgraded media features for programming transmissions, where higher cost is reflective of better quality or more features (Shah, Abstract; col. 1, lines 39-42; col. 2, lines 19-23). Shah demonstrates that user pre-selects the upgraded media features prior to transmission of corresponding programming (Shah, Fig. 5). In Shah, the server system automatically coordinates the billing for the upgraded

media features and automatically coordinates providing the upgraded media features from the corresponding broadcast sources (Shah, Abstract; col. 3, lines 10-14).

Applicant's amended Claim 1 recites, in part, *"the content server further configured to distribute an advertisement with the media content by prepending the advertisement to the media content before the media content and the advertisement are distributed to the client device; a valuation application located on the content server and configured to allocate a cost to the client device for the media content that is distributed . . . the valuation application further configured to adjust the cost allocated for the media content according to the view control input and how the media content was rendered on the client device"*.

In contrast, Shah does not mention or discuss advertising, as recited in Applicant's amended Claim 1. Specifically, Shah does not discuss prepending of an advertisement nor adjusting the cost based on how the media content was rendered on the client device, as recited in Applicant's amended Claim 1. While Shah discusses allocating a cost for the media content and adjusting the cost based on how it is to be rendered, this adjustment occurs prior to the transmission, and the cost is not adjusted if the media content was rendered differently, as recited in Applicant's amended Claim 1 (see Shah, Fig. 5).

Applicant reviews the evidence and respectfully submits that the evidence no longer supports an anticipation rejection as Shah fails to disclose each and every feature recited in Applicant's amended Claim 1. Applicant respectfully submits that Shah fails to disclose *"prepending the advertisement to the media content before the media content and the advertisement are distributed"* and *"adjust the cost allocated for the media*

content according to . . . how the media content was rendered on the client device”, as recited in Applicant’s amended Claim 1. Accordingly, Applicant respectfully requests that the § 102 rejection be withdrawn.

Independent Claims 21, 31, 44, 50 and 54

Independent Claims 21, 31, 44, 50, and 54 are directed to a system, a method, another method, a computer readable storage media, and another computer readable storage media, respectively, and are allowable for reasons similar to those discussed above with respect to Claim 1.

Independent Claim 21 recites a control-based content pricing system, comprising:

- a client device configured to:
 - request media content from a content server;
 - receive the media content with an advertisement from the content server, wherein the advertisement is prepended to the media content at the content server;
 - initiate rendering the media content;
 - receive a view control input that indicates how the media content is to be rendered; and
 - communicate the view control input to the content server via a communication control channel, the view control input providing a basis to adjust a cost allocated to the client device for the media content.

Applicant respectfully submits that Shah fails to anticipate each and every feature of Claim 21, as amended. Accordingly, Applicant respectfully requests that the § 102 rejection be withdrawn.

Independent Claim 31 recites a method having computer instructions executable by a processor, comprising:

receiving a request from a client device to receive media content;

distributing the media content to the client device in response to receiving the request, wherein an advertisement is prepended to the media content before the media content and the advertisement are distributed to the client device;

receiving a view control input from the client device that indicates how the media content is to be rendered;

allocating a cost for the media content that is distributed to the client device when distributing the media content to the client device; and

adjusting the cost according to the view control input and how the media content was rendered on the client device.

Applicant respectfully submits that Shah fails to anticipate each and every feature of Claim 31, as amended. Accordingly, Applicant respectfully requests that the § 102 rejection be withdrawn.

Independent Claim 44 recites a method having computer instructions executable by a processor, comprising:

requesting media content on a client device from a content server;

receiving on the client device the media content with an advertisement from the content server, wherein the advertisement is prepended to the media content at the content server;

initiating rendering the media content on the client device;

receiving a view control input on the client device that indicates how the media content is to be rendered; and

communicating the view control input from the client device to the content server to provide a basis to adjust an allocated cost for the client device for receiving the media content.

Applicant respectfully submits that Shah fails to anticipate each and every feature of Claim 44, as amended. Accordingly, Applicant respectfully requests that the § 102 rejection be withdrawn.

Independent Claim 50 recites one or more computer readable storage media comprising computer executable instructions that, when executed, direct a media content server to:

- distribute media content to a client device in response to a request from the client device to receive the media content, wherein an advertisement is prepended to the media content before the media content and the advertisement are distributed to the client device;
- receive a view control input from the client device that indicates how the media content is to be rendered;
- allocate a cost for the media content that is distributed to the client device when the media content is distributed to the client device;
- and
- adjust the cost according to the view control input and how the media content was rendered on the client device.

Applicant respectfully submits that Shah fails to anticipate each and every feature of Claim 50, as amended. Accordingly, Applicant respectfully requests that the § 102 rejection be withdrawn.

Independent Claim 54 recites one or more computer readable storage media comprising computer executable instructions that, when executed, direct a television-based receiver to:

- receive media content requested from a content server, wherein an advertisement is prepended to the media content at the content server;
- initiate rendering the media content;
- receive a view control input that indicates how the media content is to be rendered; and
- communicate the view control input to the content server to provide a basis to adjust an allocated cost for the television-based receiver for receiving the media content.

Applicant respectfully submits that Shah fails to anticipate each and every feature of Claim 54, as amended. Accordingly, Applicant respectfully requests that the § 102 rejection be withdrawn.

Dependent Claims 29 and 30 depend directly or indirectly from independent Claim 21, and are allowable by virtue of this dependency. These claims are also allowable for their own recited features that, in combination with those recited in Claim 21 (as discussed in regard to Claim 1, above) are not anticipated by Shah.

Applicant respectfully submits that Shah does not anticipate the claimed subject matter and that the claimed subject matter, therefore, is patentably distinguishable over the cited references. For all of these reasons, Applicant respectfully request the §102 rejection of these claims be withdrawn.

Claim Rejections Under 35 U.S.C. § 103(a)

A. Claims 2, 22, and 32 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Shah in view of Official Notice.

B. Claims 3-6, 19, 20, 24-26, 34-36, 46, 47, 55 and 56 stand rejected under § 103(a) as being unpatentable over Shah in view of U.S. Patent No. 5,532,735 to Blahut et al. (hereinafter “Blahut”).

C. Claims 7, 9-12, 27, 28, 37-40, 43, 48, 49, 52 and 53 stand rejected under § 103(a) as being unpatentable over Shah in view of U.S. Patent No. 7,340,759 B1 to Rodriguez.

D. Claims 16 and 43 stand rejected under § 103(a) as being unpatentable over Shah in view of Rodriguez, and further in view of U.S. Patent No. 6,972,680 to Yui et al. (hereinafter “Yui”).

E. Claims 8 and 36 stand rejected under § 103(a) as being unpatentable over Shah in view of U.S. Patent Application Publication No. 2004/0111756 to Stuckman et al. (hereinafter “Stuckman”).

F. Claims 13-15, 41, and 42 stand rejected under § 103(a) as being obvious over Shah in view of U.S. Patent Application Publication No. 2003/0149975 to Eldering et al. (hereinafter “Eldering”).

Applicant respectfully traverses the rejection.

As explained above with respect to the rejection under §102(b), Applicant submits that Shah fails to disclose the features of independent Claims 1, 21, 31, 44, 50, and 54. Furthermore, the Shah reference is the primary reference used in each of the §103 rejections.

Furthermore, **Independent Claim 17** is directed to a digital content server, and is allowable for reasons similar to those discussed above with respect to Claim 1. Without conceding the propriety of the stated rejections, and only to advance the prosecution of this application, Applicant amends independent Claim 17 to further clarify features of the subject matter. **Independent claim 17** as amended now recites a digital video content server, comprising:

a valuation application configured to allocate a cost to a client device for distribution of a video content to the client device from the digital video content server, wherein an advertisement is prepended to the video content before the video content and the advertisement are distributed to the client device;

the valuation application further configured to adjust the cost allocated for the video content if the advertisement is rendered for viewing by the client device, wherein adjustment of the cost is determined by a base time-line based on rendering both the video content and the advertisement on the client device.

Applicant respectfully submits that no such digital video content server is disclosed, taught, or suggested by Shah and Blahut, alone or in combination. Following the arguments presented above in regard to Claim 1, Applicant respectfully submits that Shah fails to disclose, teach, or suggest, each and every element recited in Applicant's amended Claim 17 (as discussion regarding Claim 1, above, applies to Claim 17). While the Office cites to Blahut for support of the § 103 rejection of independent Claim 17 (Office Action, pg. 10), Blahut, however, fails to compensate for the deficiencies of Shah.

Blahut is directed towards a technique allowing a viewer to preselect a desired level of advertising to be presented (Blahut, Abstract). Blahut discusses adjusting the viewer's bill based on the amount of advertising the viewer subscribed to (Blahut, col. 2; lines 19-22). Blahut mentions that the viewer may be alerted that a set of advertisements is coming up and that the viewer may opt to cancel viewing the set of advertisement (Blahut, col. 5, lines 26-35). Blahut then states that the system would react according to the viewer's choice (Blahut, col. 5, lines 34-35).

In contrast, Applicant's amended Claim 17 recites *"the valuation application further configured to adjust the cost allocated for the video content if the advertisement is rendered for viewing by the client device, wherein adjustment of the cost is determined by a base time-line based on rendering both the video content and the advertisement on the client device"*. Blahut discusses sets of advertisements, implying that Blahut cannot accommodate for partial rendering of the advertisement, as recited in Applicant's amended Claim 17 (see Blahut, col. 5, lines 29-31). Furthermore, Blahut more extensively focuses on preselecting the amount of advertising to be displayed (Blahut,

col. 5, lines 36-51), thus adjustment of cost discussed in Blahut cannot be equated with the adjustment of cost recited in Applicant's amended Claim 17.

Therefore, in addition to the previous discussion regarding the Shah reference and Claim 1, Applicant reviews the evidence and respectfully submits that the evidence no longer supports an obviousness rejection as Shah and Blahut, alone or in combination, fail to disclose, teach, or suggest each and every feature recited in Applicant's amended Claim 17. Accordingly, Applicant respectfully requests that the § 103 rejection be withdrawn.

Dependent Claims 2-16, 18-20, 22-28, 32-43, 45-49, 51-53, and 55-56, stand rejected under § 103(a) as unpatentable over a combination of Shah, Blahut, Rodriguez, Yui, Stuckman, Eldering, and Official Notice. These claims depend directly or indirectly from one of independent Claims 1, 17, 21, 31, 44, 50, or 54, respectively, and are allowable by virtue of this dependency. These claims are also allowable for their own recited features that, in combination with those recited in Claims 1, 17, 21, 31, 44, 50, or 56, are not disclosed, taught, or suggested by Shah, Blahut, Rodriguez, Yui, Stuckman, Eldering, and Official Notice, alone or in combination.

Applicant respectfully submits that Shah, Blahut, Rodriguez, Yui, Stuckman, Eldering, and Official Notice, alone or in combination, do not render the claimed subject matter obvious and that the claimed subject matter, therefore, is patentably distinguishable over the cited references. For all of these reasons, Applicant respectfully request the §103 rejection of these claims be withdrawn.

CONCLUSION

Claims 1-56 are in condition for allowance. Applicant respectfully requests reconsideration and prompt allowance of the subject application. If any issue remains unresolved that would prevent allowance of this case, the Office is requested to contact the undersigned attorney to resolve the issue.

Respectfully submitted,

Lee & Hayes, PLLC

Dated: 01/08/2009

By: / Dino Kujundzic /

Dino Kujundzic
Reg. No. 63,104
509-944-4762

Shirley L. Anderson
Reg. No. 57,763
509-944-4758